

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES INVESTOR PROTECTION  
CORPORATION,**

**Plaintiff-Applicant,**

**v.**

**BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,**

**Defendant.**

**In re:**

**BERNARD L. MADOFF,**

**Debtor.**

**Adv. Pro. No. 08-01789 (SMB)  
SIPA Liquidation  
(Substantively Consolidated)**

**DECLARATION IN  
OPPOSITION TO THE  
TRUSTEE'S MOTION TO  
AFFIRM APPLICATION OF  
THE NET INVESTMENT  
METHOD TO THE  
DETERMINATION OF  
CUSTOMER TRANSFERS  
BETWEEN BLMIS  
ACCOUNTS**

I, ATHENA ARVAN, declare pursuant to 28 U.S.C. § 1746, that the following is true based upon personal knowledge and documents I possess:

1. I am the widow of Denis Castelli, whom I married on October 2, 1982. Denis was born on April 26, 1946 and died on April 19, 2014 at the age of 68.

2. Denis worked for Daprex, Inc. ("Daprex") from 1978 to 2000. Daprex maintained a profit sharing plan (the "Plan") for its employees with Bernard L. Madoff, account # 1D005330. Daprex continued this account when Madoff formed Bernard L. Madoff Investment Securities LLC ("BLMIS") on December 4, 2000.

3. In 1982, when Denis was 36 years old, he deposited his entire IRA account into the Plan account, to be credited to his interest in the Plan account.

4. On July 31, 2001, Denis retired from Daprex at the age of 55. As of that point in time, he had not withdrawn any funds from the Plan and the company's accountants calculated the amount in the Plan that was owned by Denis and authorized the transfer of that sum -- \$1,917,764.07 -- from the Plan's BLMIS account to a BLMIS account in Denis' own name, # 1C1301.

5. Under the Plan, and under the Internal Revenue Code, Denis would not have been permitted to transfer out of the Plan's account any funds that were not attributable to his own funds.

6. Nevertheless, the Trustee credited Denis' own BLMIS account with \$0 for the transfer into the account of \$1,917,764.07. Thus, the Trustee credited Denis with no retirement funds even though he had been contributing to his IRA, and then to the Daprex Plan, for his entire working career.

7. Obviously, the Trustee has charged Denis with pension distributions that were made to other Daprex employees who had retired earlier than Denis.

8. The November 30, 2008 market value of the securities in the Account was \$3,694,611.72.

9. Denis sent a timely SIPC claim to the Trustee asserting a claim for securities in the amount of \$3,694,611.72 based upon the November 30, 2008 Madoff account statement.

10. In the Determination Letter, Picard rejected Denis' claim for securities on the theory that Denis had withdrawn from the Account \$525,000

more than he had deposited. A copy of the Trustee's Determination Letter to Denis is attached here to as Exhibit A. Attached hereto as Exhibit B is the Objection we filed to the Determination Letter.

11. I declare under penalty of perjury that the aforesaid facts are true and correct.

  
Athena Arvan